

02-17-05

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PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

van Haeringen et al.

Serial No.: 10/676,849

Filed: September 30, 2003

For: UNIVERSAL VARIABLE  
FRAGMENTS

Examiner: C. Wilder

Confirmation No.: 3760

Group Art Unit: 1645

Attorney Docket No.: 2183-6002.1US

NOTICE OF EXPRESS MAILING

Express Mail Mailing Label Number: EL994825159US

Date of Deposit with USPS: February 16, 2005

Person making Deposit: Steve Wong

PETITION TO PRESERVE A FILING DATE AND PETITION IN RESPONSE TO  
NOTICE OF INCOMPLETE APPLICATION UNDER 37 C.F.R. 1.53(e)

Attn: Office of Petition  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

The referenced application was filed on September 30, 2003, and claimed priority as a continuation of U.S. patent application Serial No. 09/958,221, filed April 15, 2002, now U.S. Patent 6,686,160, issued February 3, 2004, which is a national stage of international application PCT/NL01/00177, filed March 5, 2001. (See enclosed copy of the Utility Patent Transmittal, and first page of the specification).

On March 2, 2004, the Office mailed a Notice of Incomplete Nonprovisional Application for the referenced application. The Notice stated that a filing date had not been granted for the

02/18/2005 AWONDAF1 00000091 201469 10676849

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identified application because (1) the application had been filed without drawings, (2) the basic filing fee was missing, and (3) the oath or declaration was missing. On May 5, 2004, applicants' representatives filed a response to the Notice of Incomplete Application, mistakenly believing it was a Notice of File Missing Parts. The filed response included the basic filing fee, a Declaration and Power of Attorney, and, by mistake and unintentionally, included drawings that are unnecessary for the application. On May 5, 2004, the applicants' representatives also filed a Petition for Revival of an Application for Patent Abandoned Unintentionally under 37 C.F.R. 1.137(b). After filing the Response and the Petition, the application was accorded a May 5, 2004, filing date, as reported on the Filing Receipt mailed October 6, 2004.

Applicants herein respectfully assert that the drawings included in the May 5, 2004, response, and referenced in the originally filed application, are unnecessary for an understanding of the invention under 35 U.S.C. 113 (first sentence). As such, please find enclosed an Amendment to the Specification removing all references to the unnecessary drawings in the referenced application. In support for claiming that the drawings are not necessary, applicants cite to MPEP 601.01(f) which states in part "[i]t has been USPTO practice to treat an application that contains at least one process or method claim as an application for which a drawing is not necessary for an understanding of the invention under 35 U.S.C. 113 (first sentence)." The identified application contains at least one method claim and, therefore, a drawing is not necessary. The identified application also includes at least one kit claim, but the elements of the kit claim are not illustrated in the drawings. Thus, the drawings are unnecessary for an understanding of the invention.

As further evidence of unintentional mistake, on May 10, 2004, applicants' representatives filed a petition to revive the referenced application because applicants' representatives believed that application had become abandoned for failure to reply to a Notice to File Missing Parts. (See enclosed copy of Decision on Petition to Revive, mailed by the Office on July 14, 2004). The petition was granted by the Office on July, 14, 2004. The petition was filed in the interest of preserving the priority dates as a continuation application. The petition to revive is evidence that applicants' representatives believed they were responding to a Notice to File Missing Parts, and not a Notice of Incomplete Nonprovisional Application.

Serial No. 10/676,849

Because the drawings are unnecessary, and were included by mistake in the response, applicants respectfully request and petition under 37 C.F.R. 1.53(e) that the U.S. Application 10/676,849 be accorded the original filing date of September 30, 2003, claiming priority as a continuation application as evidenced by the enclosed returned post card showing the original filing date.

Any fees required, but not submitted herewith may be withdrawn from Deposit Account No. 20-1469. If questions remain after consideration of the foregoing, please contact applicants' attorney at the address or telephone given herein.

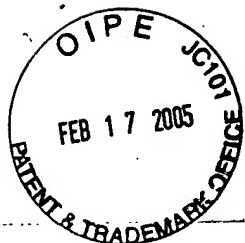
Respectfully submitted,



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Salt Lake City, Utah 84110-2550  
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Facsimile: 801-531-9168

Date: February 16, 2005

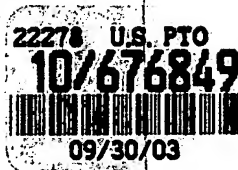
Enclosures: Petition Fee set forth in § 1.17(h)  
Amendment to Specification  
Copy of returned post card showing filing date  
Copy of Utility Patent Transmittal  
Copy of the first page of the Specification  
Copy of Decision on Petition to Revive



THE PATENT & TRADEMARK OFFICE MAILROOM  
STAMPED HEREON IS AN ACKNOWLEDGEMENT THAT ON THIS  
DATE THE PATENT & TRADEMARK OFFICE RECEIVED:

Utility Patent Application Transmittal (1 page); Specification including  
title page, claims and single page abstract (18 pages); Paper copy of  
Sequence Listing (7 pages); Request to Transfer CRF (2 pages); and  
Preliminary Amendment (9 pages)

Invention: UNIVERSAL VARIABLE FRAGMENTS  
Applicant(s): Haeringen et al.  
Filing Date: September 30, 2003  
Serial No.: Not yet assigned  
Date Sent: September 30, 2003 via Express Mail  
Label No. EV 326919142 US  
Docket No.: 2183-6002.1US  
ACT/blh



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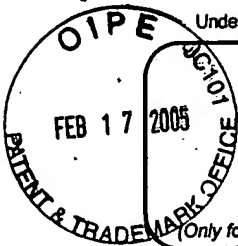
Please type a plus sign (+) inside the box → ☐

PTO/SB/05 (03-01)

Approved for use through 10/31/2002. OMB 0851-0032

U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE

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# UTILITY PATENT APPLICATION TRANSMITTAL

(Only for new nonprovisional applications under 37 C.F.R. 1.53(b))

Attorney Docket No. 2183-6002.1US

First Inventor Haeringen et al.

Title UNIVERSAL VARIABLE FRAGMENTS

Express Mail Label No. EV 326919142 US

## APPLICATION ELEMENTS

See MPEP chapter 600 concerning utility patent application contents.

1. ☐ Fee Transmittal Form (e.g., PTO/SB/17)  
(Submit an original and a duplicate for fee processing)
  2. ☒ Applicant claims small entity status.  
See 37 CFR 1.27.
  3. ☒ Specification [Total Pages (preferred arrangement set forth below)
    - Descriptive title of the invention
    - Cross Reference to Related Applications
    - Statement Regarding Fed sponsored R & D
    - Reference to sequence listing, a table, or a computer program listing appendix
    - Background of the invention
    - Brief Summary of the invention
    - Brief Description of the Drawings (if filed)
    - Detailed Description
    - Claim(s)
    - Abstract of the Disclosure
  4. ☐ Drawing(s) (35 U.S.C. 113) [Total Sheets   - 5. Oath or Declaration [Total Pages   - a. ☐ Newly executed (original or copy)
  - b. ☐ Copy from a prior application (37 CFR 1.63 (d))  
(for a continuation/divisional with Box 18 completed)
  - i. ☐ **DELETION OF INVENTOR(S)**  
Signed statement attached deleting inventor(s) named in the prior application, see 37 CFR 1.63(d)(2) and 1.33(b).
6. ☐ Application Data Sheet. See 37 CFR 1.76

## ADDRESS TO:

Mail Stop Patent Application  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

7. ☐ CD-ROM or CD-R in duplicate, large table or Computer Program (Appendix)
8. Nucleotide and/or Amino Acid Sequence Submission (if applicable, all necessary)
  - a. ☐ Computer Readable Form (CRF)
  - b. Specification Sequence Listing on:
    - i. ☐ CD-ROM or CD-R (2 copies); or
    - ii. ☒ paper
  - c. ☐ Statements verifying identity of above copies

## ACCOMPANYING APPLICATIONS PARTS

9. ☐ Assignment Papers (cover sheet & document(s))
10. ☐ 37 C.F.R. § 3.73(b) Statement ☐ Power of Attorney  
(when there is an assignee)
11. ☐ English Translation Document (if applicable)
12. ☐ Information Disclosure Statement (IDS)/PTO-1449 ☐ Copies of IDS Citations
13. ☒ Preliminary Amendment
14. ☒ Return Receipt Postcard (MPEP 503)  
(Should be specifically itemized)
15. ☐ Certified Copy of Priority Document(s)  
(if foreign priority is claimed)
16. ☐ Nonpublication Request under 35 U.S.C. 122 (b)(2)(B)(i). Applicant must attach form PTO/SB/35 or its equivalent.
17. ☒ Other:  
Request to Transfer CRF - 37 C.F.R. § 1.82 (e) & (f)

18. If a CONTINUING APPLICATION, check appropriate box, and supply the requisite information below and in a preliminary amendment, or in an Application Data Sheet under 37 CFR 1.76:

☒ Continuation ☐ Divisional ☐ Continuation-in-part (CIP)

of prior application No: 09 / 958,221

Prior application information: Examiner Cynthia B. Wilder

Group / Art Unit: 1837

For CONTINUATION or DIVISIONAL APPS only: The entire disclosure of the prior application, from which an oath or declaration is supplied under Box 5b, is considered a part of the disclosure of the accompanying or divisional application and is hereby incorporated by reference. The incorporation can only be relied upon when a portion has been inadvertently omitted from the submitted application parts.

## 19. CORRESPONDENCE ADDRESS

☒ Customer Number

24247

or ☐ Correspondence address below

Name

Address

City

State

Zip Code

Country

Telephone

Fax

Name (Print/Type)

Allen C. Turner

Registration No. (Attorney/Agent)

33,041

Signature

Date

Burden Hour Statement: This form is estimated to take 0.2 hours to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop Patent Application, Commissioner of Patents, P.O. Box 1450, Alexandria, VA 22313-1450.



## TITLE OF THE INVENTION UNIVERSAL VARIABLE FRAGMENTS

### RELATED APPLICATIONS

[0001] This application is a continuation of U.S. patent application Serial No. 09/958,221, filed April 15, 2002, now U.S. Patent \_\_\_\_\_, issued \_\_\_\_\_, 2003, which is a national stage of international application PCT/NL01/00177, filed March 5, 2001.

### TECHNICAL FIELD

[0002] The invention relates generally to methods and materials for the genetic analysis of a subject.

### BACKGROUND

[0003] For some species, reliable, simple technologies are available for genetic analysis of individuals. However, for most animal and bird species, genetic information is insufficient for applied genetics. Developing existing technologies for each species to obtain genetic data will be extremely laborious and time consuming. Progress to date has been slow. The situation is particularly problematic in the area of wildlife management. For example, building DNA patterns of hawks is currently almost impossible. At the same time, there have been reports of people illegally placing eggs from wild mating hawk couples in tamed breeding hawk nests. It is currently nearly impossible to prove fraud using DNA data in species where genetic variation has not been previously described.

[0004] Other areas of interest are DNA identification of exotic species (*e.g.*, animals, plants, organisms) for various reasons. For instance, animals arriving through veterinary control can be identified by sampling them both at departure and at arrival. Using the animal's individual DNA to identify it, animals can be tracked, and proof of their origin is always possible.

[0005] Furthermore, parentage verification in rare, expensive animals and strain identification of plants can be performed for any given combination or species. Reports have been made of selling the offspring of "lower" breeding parents as the highest possible quality



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JUL 14 2004

In re Application of  
Willem Anne Van Haeringen et al  
Application No. 10/676,849  
Filed: September 30, 2003  
Attorney Docket No. 2183-6002.1US

OFFICE OF PETITIONS  
ON PETITION


This is a decision on the petition under 37 CFR 1.137(b), filed May 10, 2004, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Application (Notice) mailed March 2, 2004. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on May 3, 2004.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (703) 306-5684.

The application is being forwarded to the Initial Patent Examination Unit.

  
Irvin Dingle  
Petitions Examiner  
Office of Petitions  
Office of the Deputy Commissioner  
for Patent Examination Policy